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Attorneys for Defendants City of Petaluma, Officer Nick McGowan and Sgt.
Jim Stephenson

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DAVID W. PIMENTEL,

Case No. C08-02121 SBA

Plaintiff,

vs.

**DEFENDANTS' JOINT CASE
MANAGEMENT CONFERENCE
STATEMENT**

COUNTY OF SONOMA, CITY OF
PETALUMA, OFFICER MCGOWAN, POLICE
SGT. STEPHENSON, DOES 1-25,

Date: September 10, 2008
Time: 3:00 p.m.
Cttrm: TELEPHONIC

Defendants.

The defendants in the above entitled action jointly submit this Case Management Statement and Proposed Order and request the Court to adopt it as its Case Management Order in this case. The plaintiff is self-represented and, as such, the parties are permitted to file separate Case Management Conference

1 Statements pursuant to Local Rule 16-1.

2 Jurisdiction and Service: Jurisdiction is proper in the United States District Court, Northern District
3 of California, pursuant to 28 U.S.C. §1367, as the conduct complained of in the complaint arose in this
4 district and the plaintiff's claims involve federal question (42 USC §1983).

5
6 Facts: The suit arises from an arrest of plaintiff David Pimentel by Petaluma Police Department.
7 Sonoma County Sheriff's Department personnel also responded to the call. Plaintiff is alleging that he
8 was arrested without process and that excessive force was utilized in making the arrest.

9
10 Legal Issues: Whether plaintiff has adequately pleaded constitutional claims against the public entities;
11 whether the officers are shielded from liability by qualified immunity.

12
13 Motions: Pending is a motion for judgment on the pleadings, filed by defendant County of Sonoma
14 on May 8, 2008. The hearing date for the motion was vacated, and the motion is still pending for
15 determination in this Court. Assuming the motion for judgment on the pleadings is denied, defendant
16 County of Sonoma will file a motion for summary judgment. The remaining defendants (City of
17 Petaluma, Officer McGowan and Sgt. Stephenson) also intend on filing motions for summary
18 judgment/partial summary judgment.

19
20 Amendment of Pleadings: No amendments to the pleadings are expected at this time.

21
22 Evidence Preservation: The undersigned have taken steps to preserve evidence relevant to the issues
23 reasonably evident in this action, including interdiction of any document-destruction program and any
24 ongoing erasures of emails, voice mails and other electronically-recorded materials.

25
26 Disclosures: Defendants City of Petaluma, Officer McGowan and Sgt. Stephenson have complied with
27 the initial disclosure requirements of Fed. R. Civ. P. 26 and have disclosed witness information, relevant
28 documents, and insurance information.

1
2 Defendant County of Sonoma has not yet made initial disclosures, as a dispositive motion for
3 judgment on the pleadings is pending, which, if successful, will eliminate County of Sonoma from this
4 action as a defendant. In the event the motion is not successful, County of Sonoma will immediately,
5 upon order of the denial of said motion, exchange initial disclosures in full compliance with Fed. R. Civ.
6 P. 26.

7 Plaintiff has not complied with the requirements of Fed. R. Civ. P. 26.
8

9 Discovery: No discovery has been taken to date. Defendants anticipate the following discovery to be
10 conducted:

- 11 a. Depositions: Defendants shall be allowed 10 depositions pursuant to the
12 limitations of Rule 30;
13 b. Written interrogatories: Defendants agree not to exceed limits of 25
14 interrogatories pursuant to the limitations of Rule 33 and request that plaintiff be
15 so limited.
16 c. Document requests: Defendants request that no party exceed 25 demands to any
17 other party.
18 d. Requests for admissions: The Defendants request that no party exceed 25 requests
19 to any other party.
20

21 Class Actions: This is not a class action.
22

23 Related Cases: There are no known related cases.
24

25 Relief: Defendants do not know what type of relief is being sought by plaintiff, other than unspecified
26 money damages.
27

28 Settlement and ADR: An ADR telephone conference has been requested by the parties, though one has

1 not yet been scheduled by the ADR coordinator.

2
3 Consent to Magistrate Judge For All Purposes: The City of Petaluma defendants have filed a declination
4 to proceed before a magistrate judge.

5
6 Other References: There are no special references at this time.

7
8 Narrowing of Issues: The motion for judgment on the pleadings may narrow the issues and parties to this
9 dispute. Further motions for summary judgment/partial summary judgment may further narrow or
10 eliminate the issues. At this early stage, it is unknown whether stipulations of facts and/or evidence will
11 be forthcoming, and /or whether motions for bifurcation will be required.

12
13 Expedited Schedule: This case is not amenable to expedited handling with streamlined procedures, given
14 that the plaintiff is pro per.

15
16 Scheduling: Defendants propose the following:

17
18 Expert designations: August 3, 2009

19 Discovery cutoff: June 1, 2009

20 Hearing on dispositive motions: July 21, 2009

21 Pretrial Conference: September 28, 2009

22 Trial: October 19, 2009
23

24 Trial: All parties have demanded jury trial, and the defendants anticipate a trial length of 3-4 days.
25

26 Disclosure of Non-party Interested Entities or Persons: No party has filed the "Certification of Interested
27 Entities or Persons" required by Civil Local Rule 3-16. The undersigned hereby certify, by signature
28 below, that they are unaware of any persons, firms, partnerships, corporations (including parent

NO: C08-02121 SBA: Defendants' Joint CMC Statement

corporations) or other entities known by the undersigned to have either: (1) a financial interest in the subject matter in controversy or in a party to the proceeding; or (ii) any other kind of interest that could be substantially affected by the outcome of the proceeding, other than the parties identified in the pleadings.

Other Matters which may Facilitate: Determination of County of Sonoma's motion for judgment on the pleadings may facilitate speedy disposition of this matter, if the matter is determined prior to the initial Case Management Conference. In the event that the motion is not determined by the date of the initial Case Management Conference, the County may seek to postpone the initial Case Management Conference pending resolution of its motion which, if granted, will dispose of all claims against the County.

DATED: July 30, 2009

SENNEFF FREEMAN & BLUESTONE, LLP

-----s/ Bonnie A. Freeman-----
By _____
Bonnie A. Freeman
Attorneys for Defendant County of Sonoma

DATED: July 30, 2009

MEYERS, NAVE, RIBACK, SILVER & WILSON

-----s/ Matthew Lavinets-----
By _____
Matthew Lavinets,
Attorneys for Defendants City of Petaluma,
Nick McGowan and Jim Stephenson

CERTIFICATE OF SERVICE

I am employed in Sonoma County, California. I am over the age of 18 years and not a party to the within action. My business address is 50 Old Courthouse Square, Suite 401, Santa Rosa, CA 95404. On July 30, 2008, I served the following document(s):

DEFENDANTS' JOINT CASE MANAGEMENT CONFERENCE STATEMENT

by placing a true copy thereof enclosed in a sealed envelope and served in the manner described below and addressed to:

PLAINTIFF IN PRO PER

David W. Pimentel
1192 Liberty Road
Petaluma, CA 94952
Telephone: (707) 769-0127

**Attorneys for Defendants City of Petaluma,
Officer Nick McGowan and Sgt. Jim
Stephenson:**

Clifford F. Campbell, Esq.
Tricia L. Hynes, Esq.
Matthew A. Lavrinets, Esq.
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Facsimile: (510) 444-1108

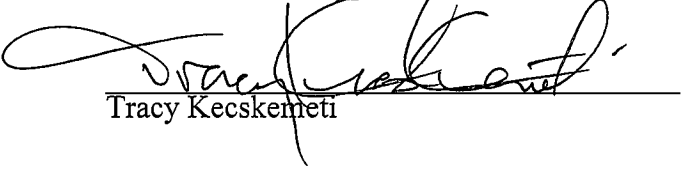
X **BY U.S. MAIL:** I caused such envelope to be deposited in the mail by placing the envelope for collection and mailing following our ordinary business practices. I am readily familiar with this business' practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid. The name and address of each person/firm to whom I mailed the documents is listed above.

— **BY HAND DELIVERY:** I caused such envelope to be delivered by hand to the addressee(s) designated above.

— **BY OVERNIGHT COURIER SERVICE:** I caused such envelope to be delivered via overnight courier services to the addressee(s) designated above.

— **BY FACSIMILE:** I caused said document(s) to be transmitted to the facsimile number(s) of the addressee(s) designated.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on the date set forth above at Santa Rosa, California.


Tracy Kecskemeti